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OFFICE OF SECRETARY

0429

November 18, 1996

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VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Amendment of Part 90 Concerning
the Commission's Finder's Preference
Rules WT Docket No. 96-199

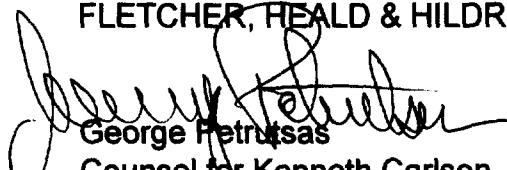
Dear Mr. Caton:

On behalf of Kenneth Carlson, Rosemary Coyle and JKR Partnership, we are filing an original and nine (9) copies of their Joint Comments on the above-referenced proceeding.

Please refer to us any request for additional information.

Very truly yours,

FLETCHER, HEALD & HILDRETH, P.L.C.


George Petrusas
Counsel for Kenneth Carlson,
Rosemary Coyle and JKR Partnership

GP:cej
Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Part 90)

Concerning the Commission's)

Finder's Preference Rules)

WT Docket No. 96-199

**JOINT COMMENTS OF
KENNETH CARLSON, ROSEMARY COYLE,
AND JKR PARTNERSHIP**

Kenneth Carlson, Rosemary Coyle, and JKR Partnership, by counsel, respectfully submit their comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") in the above-captioned proceeding. Mr. Carlson, Ms. Cole, and JKR Partnership ("Joint Commenters") have requests for finder's preferences pending at the Commission and, therefore, are interested in the proposals in the proceeding.

In this proceeding, the Commission has proposed to discontinue the finder's preference program with respect to the frequencies assignable on an exclusive basis in the 220 - 222 MHz band in the same manner and for the same reasons the Commission has proposed to discontinue that program in the 800 and 900 MHz SMR services. The Joint Commenters understand why the Commission wishes to discontinue the program in those situations and, while they do not agree with the Commission's reasoning for that proposal, they do not object to it. However, the Joint Commenters are very much concerned about and strongly oppose the Commission's

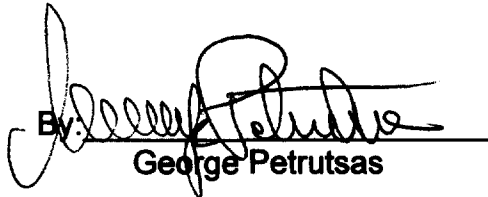
further proposal, contained in Paragraph 11 of the Notice, under which the Commission would "... retain the discretion to dismiss pending finder's preference requests ...", not only for frequencies in the 220 - 222 MHz band, the subject of this proceeding, but also "... for any services in any frequency bands in which we decide to eliminate the finder's program." Notice, Para. 11. All three Joint Commenters have requests pending for finder's preferences for SMR frequencies in the 800 MHz band. Dismissal of their requests would be manifestly unfair to them. Relying on the Commission's rules, they have expended substantial efforts and resources in investigating and documenting the rule violations and in preparing, filing and defending their finder's requests. Certainly, equity requires that they be rewarded for their efforts. It is no answer to say, as the Commission does, that they would have an opportunity to apply for the unused frequencies once they become available for licensing. Dismissal of their pending requests would deprive them of the opportunity for obtaining a dispositive preference for the frequencies they have discovered to be unused. Denial of that opportunity would raise serious legal issues and would be clearly unfair. On the other hand, processing pending finder's requests would not adversely effect the Commission's proposed regional licensing program, nor the future regional licensees. Bidders for regional licenses will be on notice that certain frequencies are subject to finder's preferences and would adjust their bids for the licenses involved accordingly. The only persons to benefit from the dismissal of pending finder's requests would be the licensees of the target stations involved who would be allowed to continue to hold on to the frequencies they have had warehoused and have allowed to lay fallow in violation of

the Commission's rules.

For the foregoing reasons, the Joint Commenters submit that fairness and equity require that the Commission retain and process to conclusion pending requests for finder's preferences, even if it decides to discontinue the program itself. Therefore, they urge the Commission not to adopt its proposal described in Paragraph 11, of its Notice.

Respectfully submitted

ROSEMARY COYLE
KENNETH C. CARLSON
JKR PARTNERSHIP

By: 
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Their Attorney

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Date: November 18, 1996

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